

Sections of act and regulations	Classes of operators	State	Effective date of designation
		Oregon .....	Jan. 31, 1975.
		Pennsylvania ....	May 2, 1974.
		Puerto Rico .....	Nov. 19, 1976.
		Rhode Island ....	Mar. 29, 1982.
		Virgin Islands ....	Nov. 19, 1976.
		Washington .....	Jan. 31, 1975.

[35 FR 19667, Dec. 29, 1970]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 331.6, see the List of CFR Sections Affected in the Finding Aids section of this volume.

## PART 335—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE FEDERAL MEAT INSPECTION ACT

### Subpart A—General

Sec.

335.1 Scope and applicability of rules of practice.

### Subpart B—Supplemental Rules of Practice

335.10 Refusal or withdrawal of inspection service under section 401 of the Act.

335.11 Withdrawal of inspection service for failure of an establishment to destroy any condemned carcass or part thereof or any condemned meat or meat food product.

335.12 Withholding use of marking, labeling, or containers from use under section 7 of the Federal Meat Inspection Act.

335.13 Refusal or withdrawal of inspection service under the Federal Meat Inspection Act for failure to maintain sanitary conditions.

### Subpart C—Rules Applicable to Suspension of Assignment of Inspectors for Threats to Forcibly Assault or Forcible Assault, Intimidation or Interference With Any Inspection Service Employee

335.20 Notification to operator of establishment of incident.

335.21 Procedure upon failure of operator of establishment to take action required by § 305.5(b) of the regulations.

### Subpart D—Rules Applicable to Suspension of Assignment of Inspectors Under Section 3(b) of the Federal Meat Inspection Act

335.30 Suspension of the assignment of inspectors under section 3(b) of the Act.

335.31 Written notification to operator of establishment of incident.

335.32 Procedure upon receipt of the establishment answer.

### Subpart E—Criminal Violations

335.40 Opportunity for presentation of views before report of criminal violations.

AUTHORITY: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

SOURCE: 42 FR 10960, Feb. 25, 1977, unless otherwise noted.

### Subpart A—General

#### § 335.1 Scope and applicability of rules of practice.

(a) The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under sections 4, 6, 7(e), 8, and 401 of the Federal Meat Inspection Act (21 U.S.C. 604, 606, 607(e), 608 and 671). In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

(b) The rules of practice set forth in subpart C of this part shall be applicable to the suspension of assignment of inspectors for threats to forcibly assault or forcible assault, intimidation or interference with any inspection service employee pursuant to § 305.5(b) of the regulations (9 CFR 305.5(b)) under the Federal Meat Inspection Act. In addition, the definitions applicable to proceedings under the Uniform Rules of Practice (7 CFR 1.132) shall apply with equal force and effect to proceedings under subpart C.

(c) The rules of practice set forth in subpart D of this part shall be applicable to the suspension of assignment of

inspectors under section 3(b) of the Act (21 U.S.C. 603(b)). In addition, the definitions applicable to proceedings under the Uniform Rules of Practice (7 CFR 1.132) shall apply with equal force and effect to proceedings under part 313.

[42 FR 10960, Feb. 25, 1977, as amended at 44 FR 68817, Nov. 30, 1979]

### Subpart B—Supplemental Rules of Practice

#### **§ 335.10 Refusal or withdrawal of inspection service under section 401 of the Act.**

If the Administrator has reason to believe that the applicant for or recipient of service under Title I of the Act is unfit to engage in any business requiring such inspection because of any of the reasons specified in section 401 of the Act, he may institute a proceeding by filing a complaint with the Hearing Clerk, who shall promptly serve a true copy thereof upon each respondent, as provided in §1.147(b) of the Uniform Rules of Practice (9 CFR 1.147(b)).

#### **§ 335.11 Withdrawal of inspection service for failure of an establishment to destroy any condemned carcass or part thereof or any condemned meat or meat food product.**

(a) In any situation in which the Administrator has reason to believe that an establishment which receives inspection service under Title I of the Federal Meat Inspection Act has failed to destroy any condemned carcass or part thereof or any condemned meat or meat food product, as required under sections 4 and 6 of the Federal Meat Inspection Act (21 U.S.C. 604 and 606) and the regulations in this subchapter, he may notify the operator of the establishment, orally or in writing, of the Administrator's intent to withdraw (for such period or indefinitely as the Administrator deems necessary to effectuate the purposes of the Act) inspection service from the establishment, pursuant to sections 4, 6, and 401 of the Act (21 U.S.C. 604, 606, and 671) and §305.5(a) of the regulations (9 CFR 305.5(a)), if the establishment fails to destroy the condemned articles involved, as specified in the notification, within three days of the receipt of the notification by the operator of the es-

tablishment. In the event of oral notification, a written confirmation shall be given, as promptly as circumstances permit, to the operator of the establishment of the intent to withdraw inspection. The written notification or confirmation shall be served upon the operator of the establishment in the manner prescribed in §1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(b) If any establishment so notified fails to destroy any condemned carcass or part thereof or any condemned meat or meat food product as specified in the notice, the Administrator may issue and file a complaint in accordance with the Uniform Rules of Practice. Effective upon service of the complaint, inspection service under the Act shall be withdrawn from such establishment as provided in sections 4, 6, and 401 of the Federal Meat Inspection Act (21 U.S.C. 604, 606 and 671), pending final determination in the proceeding.

#### **§ 335.12 Withholding use of marking, labeling, or containers from use under section 7 of the Federal Meat Inspection Act.**

(a) In any situation in which the Administrator determines that any marking or labeling or size or form of any container in use or proposed for use with respect to any article subject to Title I of the Federal Meat Inspection Act is false or misleading in any particular, he shall notify, in writing, the person, firm, or corporation using or proposing to use such marking, labeling, or container that such use shall be withheld unless the marking, labeling, or container is modified in such a manner as the Administrator may prescribe so that it would not be false or misleading.

(b) The written notification shall briefly set forth the reason for withholding the use of the marking, labeling, or container, and shall offer the respondent an opportunity to submit a written statement by way of answer to the notification and a right to request a hearing with respect to the merits or validity of the withholding action. The written notification shall be served in the manner prescribed in §1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).